


<p>California Department of Justice DIVISION OF CALIFORNIA JUSTICE INFORMATION SERVICES Nick L. Dedier, Director/CIO</p>		<h1>INFORMATION BULLETIN</h1>	
<p><i>Subject:</i></p> <p>Megan's Law and Enactment of Assembly Bill 1323</p>	<p><i>No.</i></p> <p>05-24-BCIA</p>	<p><i>Contact for information:</i></p> <p>Lydia Pantoja, Analyst Sex Offender Tracking Program (916) 227-4526</p>	
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TO: ALL CALIFORNIA LAW ENFORCEMENT AND CRIMINAL JUSTICE AGENCIES

Assembly Bill (AB) 1323 (Chapter 722, Statutes of 2005), was signed into law as "urgency" legislation on October 7, 2005, and took effect immediately. This bill amended several statutes that impact how local law enforcement agencies (LEAs) and the Department of Justice (DOJ) implement Megan's Law.

The DOJ currently operates and maintains the Megan's Law Internet Web Site for the purpose of disclosing specified information to the public on persons required to register as sex offenders under California Penal Code (PC) section 290. The mandate to operate this Web Site, as well as other provisions related to Megan's Law, are contained in Section 290.46 PC which was added in 2004, by the enactment of AB 488.

NOTE: Please refer to DOJ Information Bulletins 04-19-BCIA, Megan's Law for the Internet VCIN Entry Changes, dated 10/09/2004, and 04-023-BCIA, Megan's Law Internet Update, dated 12/27/2004, for further information on AB 488.

The following is a summary of the primary changes resulting from enactment of AB 1323 and their impact on Megan's Law:

Distribution of CD-ROMs or Other Electronic Medium

Section 290.4(b) PC has been amended to eliminate the requirement for the DOJ to distribute to local LEAs a CD-ROM or other electronic medium containing sex offender information. Consequently, the DOJ will no longer distribute offender information to LEAs via CD-ROM.

Access to Sex Offender Information by the Public at LEAs

The requirement that LEAs make sex offender information available to the public for viewing was eliminated. Therefore, LEAs are encouraged to refer members of the public to the Megan's Law Internet Web Site (www.meganslaw.ca.gov) which is easier to access and provides more detailed offender information.

Designation and Categorization of Sex Offenders

Section 290.4 PC has been amended to eliminate the requirement for the DOJ to designate sex offenders using the "High Risk" designation. Further, although not specifically defined by statute, the other commonly used Megan's Law designations, "Serious" and "Other," have also been eliminated.

The following categories for sex offenders will be used in reference to the Megan's Law Internet Web Site: (1) "Full Address;" (2) "ZIP Code Only;" (3) "No Post;" and (4) "Excluded." A "No Post" offender would not be disclosed to the public, based on current law. An "Excluded" offender is a person who would be disclosed to the public, except current law allows certain persons to apply for and be granted an exclusion from disclosure. The offender would be "Excluded" from disclosure to the public; however, the exclusion would be terminated if the offender subsequently violates probation or is convicted of an offense that results in public disclosure.

Operation of LEA Internet Web Sites

Some LEAs use the Internet to provide the public with sex offender information. Section 290.45(b) PC has been amended to clarify the requirements local LEAs must meet when disclosing sex offender information to the public via a LEA Internet Web Site. Previously, a LEA was allowed to release offender information via a LEA Internet Web Site only if it was associated with an offender designated as "High Risk." As previously stated, the "High Risk" designation has been eliminated.

A LEA will still be allowed to disclose information on a sex offender via a LEA Internet Web Site. However, one of the following conditions must be met: (1) there is an active warrant for the offender's arrest; or (2) the LEA determines that release of additional information on a specific offender is necessary to ensure the public safety. This applies to persons categorized as "Full Address," "ZIP Code Only," "No Post," and "Excluded." However, the LEA may not disclose the offender's home address unless the address is also on the DOJ's Public Internet Web Site.

This amendment will also allow a LEA to disclose information not currently shown on the DOJ's Internet Web Site, such as MO information or conditions of parole or probation.

Public Notifications by LEAs

In addition to using a LEA Internet Web Site to provide information, some LEAs proactively notify the public about certain offenders. Now, Section 290.45(a) PC has amended the restrictions previously placed on LEAs when notifying the public about sex offenders. Prior to this amendment, LEAs could only notify the public on "Serious" offenders if the offenders were: (1) likely to come into contact with members of the community; and (2) deemed to be a "risk." Furthermore, LEAs were permitted to release specified information to the public regarding any "High Risk" offender. However, notifications could not be done for offenders who were designated as "Other."

A LEA is now allowed to proactively notify members of the public about any sex offender when it is necessary to ensure public safety, based on the agency's assessment of the offender's risk to the community. This includes any offender who is now categorized as "No Post" or "Excluded," provided that the LEA believes the offender will pose a risk to the community.

Exclusion from Disclosure on the Megan's Law Internet Web Site

Section 290.46(e) PC has been amended to revise the criteria used by the DOJ when evaluating a sex offender who submits an application for exclusion from disclosure on the Megan's Law Internet Web Site, based on a conviction for either Section 288 PC or 288.5 PC. Previously, this section required the approval of an application if the offender could prove that they successfully completed probation granted pursuant to Section 1203.066 PC.

The new criteria requires that the sex offender show that he/she is on probation at the time of the application or has successfully completed probation. The new criteria also requires the offender to prove that the acts committed during the course of his/her offense did not involve oral copulation or sexual penetration of his/her victim, and that he/she was the victim's parent, stepparent, sibling, or grandparent.

Termination of California Sex Offender Information (CSOI) "900" Telephone Service

Section 290.4(a) PC has been amended to eliminate the mandate for the DOJ to operate and maintain the CSOI "900" telephone service. This fee-based service allowed the public to obtain Megan's Law information on a maximum of two persons per call and to be notified if the person(s) were designated as either "High Risk" or "Serious" sex offenders.

The DOJ will now provide public access to sex offender information only via the Megan's Law Internet Web Site. Therefore, LEAs are encouraged to refer members of the public to the Megan's Law Internet Web Site (www.meganslaw.ca.gov), since it is easier to access and provides more detailed offender information. While the telephone service is being discontinued, the fee-based mail-in service specifically designed for public and private organizations, as well as businesses, will still be available. The cost remains \$4 per subject, with a minimum of six subjects.

Disclosure of Out-of-State Sex Offenders

Section 290.46(d) PC has amended to add the requirement that specified sex offenders entering California from another state must register and be disclosed on the Megan's Law Internet Web Site in the "ZIP Code Only" category, unless the DOJ determines that he/she is subject to "Full Address" disclosure.

This provision attempts to establish consistency with a related law enacted in 2004 (AB 2395) that requires a person to register in California as a sex offender if he/she was convicted of an offense in another state that requires registration in that state. Prior to AB 1323, the offender was placed in the "No Post" category and was not disclosed on the Megan's Law Internet Web Site.

Notification of Sex Offenders to College Communities

Section 290.01(d) PC has been amended to bring state law into conformity with federal law regarding the release to college communities of offender information not disclosed on the Megan's Law Internet Web Site. Prior to this amendment, federal law authorized the release of information to a college community about offenders not subject to public disclosure, but California did not have a corresponding state statute permitting such disclosure.

This amendment creates statutory authority that allows disclosure of information to a college community on sex offenders categorized as "No Post" or "Excluded."

Miscellaneous Provisions

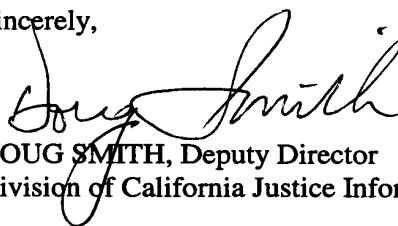
In addition, AB 1323 made other minor revisions to the PC, as well as the Civil, Education, and Health and Safety Codes. These include:

- The advisement contained on real estate contracts has been revised to notify specified parties that they can obtain information on sex offenders by accessing the Megan's Law Internet Web Site rather than using the CD-ROM previously available at LEAs.
- The disclosure required to be given to specified persons has been revised to notify those persons that they can obtain information on sex offenders residing in community care facilities by accessing the Megan's Law Internet Web Site rather than using the CD-ROM previously available at LEAs.
- Technical changes to achieve greater consistency among related statutes.

Since AB 1323 was designated as "urgency" legislation, these amendments will not be reflected in the printed version of the Penal Code until the 2006 edition is released. If you have specific questions concerning this Information Bulletin, please contact any of the following Sex Offender Tracking Program staff:

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Sincerely,



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